

PLANNING AND ZONING BOARD
APRIL 28, 2004

1. ROLL CALL

The meeting was called to order at 7:05 p.m. Board members present were Chair Mike Bender, Vice-Chair Mimi Turin, and John Stevens. Also present were Town Attorney Monroe Kiar, Planner Chris Gratz and Board Secretary Janet Gale recording the meeting. Casey Lee and Scott McLaughlin were absent.

2. APPROVAL OF MINUTES: September 24, 2003
April 14, 2004

Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve the minutes of September 24, 2003. In a voice vote, with Ms. Lee and Mr. McLaughlin being absent, all voted in favor. **(Motion carried 3-0)**

Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve the minutes of April 14, 2003. In a voice vote, with Ms. Lee and Mr. McLaughlin being absent, all voted in favor. **(Motion carried 3-0)**

3. PUBLIC HEARING

Rezoning

3.1 ZB 3-2-04, Doumar, Allsworth, et al./B&R Real Estate Services, LLC., 6650 Nova Drive (from B-1 to B-2)

John Voigt, representing the petitioner, was present. He indicated that he would also be the spokesperson for item 3.4. Mr. Gratz read the planning report.

Mr. Voigt maintained that he was not having the property rezoned, but rather reopened. Using a site plan and other graphs, he clarified the intent of the request. Mr. Voigt specified that this use preexisted since the early 1980s' and that the residences had been built around the gas station. Although no structural changes would be made, the landscaping would be upgraded, signage would come down and parking islands would be expanded in order to comply. The major problem was whether or not the use had been abandoned since the service station had been closed in October 2002.

Mr. Stevens asked Mr. Kiar for his opinion regarding the applicability of Code Section 12-37(A)(E)(3). Without having the benefit to research, Mr. Kiar opined that staff was correct in interpreting Section 12-44 of the Land Development Code and that non-conformance structures or premises which uses have been abandoned or discontinued for 90 consecutive days, must conform to the regulations of the district in which they were located. Mr. Voigt contended that the gas station had maintained its character by having the canopy, fuel pumps and signage indicating that it was closed and maintained, but the use was not abandoned. Mr. Kiar indicated that he would have to do more research on Mr. Voigt's vested rights.

Chair Bender asked if anyone wished to speak for or against this item.

James McCarthy, 18467 SW 83 Court, indicated that he was employed by Tom Thumb which was located northeast of the subject property. He was opposed to the rezoning and the variance request.

As there were no other speakers, the public hearing was closed.

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Mr. Kiar, having examined the State Statutes further, concurred with staff's interpretation as set forth in the planning report.

A discussion ensued and Board members expressed their concerns and viewpoints. Chair Bender expressed that he had no problem with the request as the gas station had been there for many years. Vice-Chair Turin had safety concerns and since there had been an admission of discontinuation by the applicant, she felt that granting the use was inappropriate.

Vice-Chair Turin made a motion, seconded by Mr. Stevens, to deny. In a roll call vote, the vote was as follows: Chair Bender - no; Vice-Chair Turin - yes; Ms. Lee - absent; Mr. McLaughlin - absent; Mr. Stevens - yes. **(Motion carried 2-1 which meant an automatic tabling to the next meeting on May 12, 2004)**

Chair Bender asked for a motion to take the variance request item 3.4 out of order.

Vice-Chair Turin so moved, seconded by Mr. Stevens. In a voice vote, with Ms. Lee and Mr. McLaughlin being absent, all voted in favor. **(Motion carried 3-0)**

3.4 Mr. Gratz read the planning report.

Mr. Voigt argued that the subject site was in existence and in its current configuration prior to any of the neighbors building around it. He noted the distance between the service station and the residences and believed that the hardship was that the Town changed the zoning Code after the facility had been in existence. The Board believed this was a moot point as the rezoning request had been tabled.

Chair Bender asked if anyone wished to speak for or against this item.

James McCarthy, 18467 SW 83 Court, was opposed to a service station and felt it should be a convenience store.

As there were no other speakers, the public hearing was closed.

Mr. Stevens made a motion, seconded by Vice-Chair Turin, to table to the next meeting [May 12, 2004] to be heard concurrently with ZB 3-2-04. In a roll call vote, the vote was as follows: Chair Bender - yes; Vice-Chair Turin - yes; Ms. Lee - absent; Mr. McLaughlin - absent; Mr. Stevens - yes. **(Motion carried 3-0)**

3.2 ZB 3-3-04, Broward Schools Credit Union/Motiva Enterprises, LLC., 3000 SW 64 Avenue (from M-4 County to B-1)

Eric Anderson, representing the petitioner, was present. Mr. Gratz read the planning report and indicated that staff requested that the applicant rezone to a valid Davie zoning district.

Chair Bender asked if anyone wished to speak for or against this item. As no one spoke, the public hearing was closed.

Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve. In a roll call vote, the vote was as follows: Chair Bender - yes; Vice-Chair Turin - yes; Ms. Lee - absent; Mr. McLaughlin - absent; Mr. Stevens - yes. **(Motion carried 3-0)**

Special Permit

3.3 SE 2-1-04, Dominguez, 11501 SW 17 Street (R-1)

Chair Bender advised that staff had requested a tabling to May 12th.

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Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve the tabling. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Turin – yes; Ms. Lee – absent; Mr. McLaughlin – absent; Mr. Stevens – yes. **(Motion carried 3-0)**

Variance

3.4 V-3-1-04, Doumar, Allsworth, et al./B&R Real Estate Services, LLC., 6650 Nova Drive (B-1)

This item was tabled earlier in the meeting.

Vacation of Right of Way

3.5 VA 3-1-04, Jablon/RHG/TKO Joint Venture, LLC., generally located on the northeast corner of Rolling Hills Circle and Rolling Hills Boulevard

Howard Jablon, representing the petitioner, was present.

Mr. Gratz explained that the easements needed to be corrected on the plat and site plan in order to correspond with what was built on the site.

Chair Bender asked if anyone wished to speak for or against this item. As no one spoke, the public hearing was closed.

Vice-Chair Turin made a motion, seconded by Mr. Stevens, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Turin – yes; Ms. Lee – absent; Mr. McLaughlin – absent; Mr. Stevens – yes. **(Motion carried 3-0)**

4. OLD BUSINESS

There was no old business discussed.

5. NEW BUSINESS

There was no new business discussed.

6. COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions made.

7. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 7:52 p.m.

Date Approved _____

Chair/Board Member